

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

WILLIAM A. PARRISH, JR.,

Petitioner,

: Case No. 3:16-cv-486

- vs -

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

WARDEN, Marion
Correctional Institution,

:

Respondent.

**SUPPLEMENTAL REPORT AND RECOMMENDATIONS ON
MOTION FOR RELIEF FROM JUDGMENT**

This case is before the Court on Petitioner's Motion for Relief from Judgment pursuant to Fed. R. Civ. P. 60 (ECF No. 39). The Magistrate Judge filed a Report and Recommendations recommending the Motion be denied (ECF No. 41). Mr. Parrish has filed Objections (ECF No. 42) and Judge Rice has recommitted the matter for reconsideration in light of the Objections (ECF No. 43).

Parrish's sole claim in the Objections is that the Magistrate Judge was biased against Parrish because Parrish had filed a complaint of judicial misconduct against the Magistrate Judge on the same day that his case was dismissed. He infers that the dismissal was in retaliation for the misconduct complaint (ECF No. 42, PageID 2266). He supports the inference with the assertion that the dismissal happened on the same day that the Magistrate Judge was served with the misconduct complaint. *Id.*

The recorded facts belie these assertions. The Magistrate Judge recommended dismissal

on May 23, 2017 (ECF No. 30). Judge Rice adopted that Report and dismissed the case on September 5, 2017 (ECF No. 36). Since Mr. Parrish asserts the Magistrate Judge was served with his misconduct complaint on October 5, 2017, it is impossible for that complaint to have motivated a Report nearly five months earlier.

It is therefore again respectfully recommended that the Motion for Relief from Judgment be denied.

November 21, 2017.

s/ *Michael R. Merz*
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by mail. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 153-55 (1985).